

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

MAURICE JOHNSON,

Plaintiff,

v.

FLUOR INDUSTRIAL SERVICES, INC.,

Defendant.

Civil Action No. 07-cv-657 (SLR)

**ANSWER AND AFFIRMATIVE DEFENSES OF
DEFENDANT FLUOR INDUSTRIAL SERVICES, INC.**

Defendant Fluor Industrial Services, Inc. (hereinafter, “Fluor” or “Defendant”), by and through the undersigned counsel, hereby answers the Complaint of Plaintiff Maurice Johnson (“Mr. Johnson” or “Plaintiff”) in accordance with the numbered paragraphs therein. Defendant denies all factual allegations in the Complaint that are not specifically admitted herein.

1. The allegations of paragraph 1 of the Complaint state conclusions of law to which no responsive pleading is required. To the extent this paragraph includes factual allegations, they are denied.

2. Defendant lacks information or knowledge sufficient to form a belief as to the truth of the allegations of paragraph 2 of the Complaint and, therefore, such allegations are denied.

3. Denied.

4. Defendant admits that it does business at DuPont, 104 Hay Road PSP Trailer, Edgemoor, New Castle County, Delaware 19809. Defendant denies the remaining allegations of paragraph 4 of the Complaint.

5. Denied.

6. Defendant admits that it is not continuing to engage in any discriminatory practice. To the extent that the allegations of this paragraph imply that Defendant engaged in a discriminatory practice at any time, the allegations are denied.

7. Defendant admits that it received a Notice of Charge of Discrimination that Plaintiff filed with the State of Delaware, Department of Labor, Division of Industrial Affairs. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 7 of the Complaint and, therefore, such allegations are denied.

8. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 8 of the Complaint and, therefore, such allegations are denied.

9. Defendant admits that attached to the Complaint is a Final Determination and Right to Sue Notice from the State of Delaware, Department of Labor, Division of Industrial Affairs – Discrimination Program dated July 20, 2007. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 9 of the Complaint and, therefore, such allegations are denied.

10. Defendant admits that Plaintiff alleges the discriminatory acts set forth in paragraph 10 of the Complaint. By way of further response, Defendant denies that it discriminated against Plaintiff in any manner.

11. Denied.

12. Defendant admits that attached to the Complaint is a copy of the Charge of Discrimination that Plaintiff filed with the State of Delaware, Department of Labor, Division of

Industrial Affairs – Discrimination Program. Defendant lacks information or knowledge sufficient to form a belief as to the truth of the remaining allegations of paragraph 12 of the Complaint and, therefore, such allegations are denied.

13. Denied.

14. Denied.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Plaintiff fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Defendant acted at all times in good faith and for legitimate business reasons.

THIRD AFFIRMATIVE DEFENSE

Defendant exercised reasonable care to prevent and to correct promptly any discriminatory or harassing behavior, and Plaintiff unreasonably failed to take advantage of Defendant's existing preventative and corrective opportunities and otherwise to avoid harm.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred to the extent that Plaintiff seeks redress from alleged acts of discrimination about which he did not file a timely charge or complaint with the appropriate federal and/or state administrative agency.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred in whole or in part by the applicable statutes of limitation.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff's claims for economic damages are barred to the extent Plaintiff failed to mitigate his damages.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiff's Complaint fails to state a claim for punitive damages against Defendant upon which relief can be granted because at all times Defendant made good faith efforts to comply with anti-discrimination laws and did not act with reckless disregard or indifference towards Plaintiff's rights.

EIGHTH AFFIRMATIVE DEFENSE

Some or all of Plaintiff's claims are barred by the equitable doctrines of waiver, estoppel and laches.

NINTH AFFIRMATIVE DEFENSE

Defendant's Answer and Affirmative Defenses are based upon the specific allegations in the Complaint, and Defendant reserves the right to amend this Answer or add additional affirmative defenses if and when they become known.

CONCLUSION

WHEREFORE, Defendant Fluor Industrial Services, Inc. respectfully requests that Plaintiff's Complaint be dismissed with prejudice and that judgment be entered in favor of

Defendant, along with an award of costs, counsel fees and any other relief the Court deems appropriate arising out of the defense of this matter.

Dated: August 11, 2008

Respectfully submitted,

BLANK ROME LLP

/s/ Dale R. Dubé

DALE R. DUBE (I.D. NO. 2863)
1201 Market Street
Suite 800
Wilmington, Delaware 19801
Telephone: 302.425.6467
Facsimile 302.425.6464
dube@blankrome.com

Attorneys for Defendant
Fluor Industrial Services, Inc.

OF COUNSEL:

Michael J. Eagles, Esquire
BLANK ROME LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19103-6998
Telephone: 215-569-5741

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true and correct copy of **DEFENDANT'S ANSWER WITH AFFIRMATIVE DEFENSES** was served, by certified United States Mail, return receipt requested, as follows:

Maurice Johnson, *Pro Se*
2101 N. Spruce Street
Wilmington, Delaware 19802

In addition, a copy of the foregoing has been electronically filed and is available for download from the Court's CM/ECF System.

/s/ Dale R. Dubé

Dale R. Dube (I.D. No. 2863)